

SAN DIEGO COUNTY SUPERIOR COURT RULES

Revised July 1, 2004

DAILY JOURNAL CORPORATION

915 East First Street, Los Angeles, California 90012
P.O. Box 54026, Los Angeles, California 90054
Telephone (213) 229-5300

San Diego Commerce
2652 4th Ave. 2nd Floor
San Diego, CA 92103
Telephone (619) 232-3486
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SAN DIEGO COUNTY

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**DIVISION II:
CIVIL****PREAMBLE**

These rules apply to all cases filed in or transferred to the courts of San Diego County. The courts endorse the Civil Litigation Code of Conduct adopted by the San Diego County Bar Association, and hereby encourage all attorneys practicing before them to comply with these guidelines. The code states:

GENERAL

1. Lawyers should honor their commitments.
2. Lawyers should uphold the integrity of our system of justice.
3. Lawyers should not compromise their integrity for the sake of a client, case, or cause.
4. Lawyers should conduct themselves in a professional manner.
5. Lawyers should be guided by a fundamental sense of fair play in all professional dealings.

**DUTIES OWED IN PROCEEDINGS
BEFORE THE COURT**

1. Lawyers should be courteous and respectful to the Court.
2. Lawyers should be candid with the Court.
3. Lawyers and clients appearing in court should dress neatly and appropriately.
4. Lawyers should be on time.
5. Lawyers should be prepared for all court appearances.
6. Lawyers should attempt to resolve, by agreement, differences regarding procedural and discovery matters.
7. Lawyers should discourage and decline to participate in litigation that is without merit or is designed primarily to harass or drain the financial resources of the opposing party.
8. Lawyers should avoid any communications, direct or indirect, about a pending case with a judge unless the opposing party or lawyer is present or unless permitted by the court rules or otherwise authorized by law.
9. Lawyers should refrain from impugning the integrity of the judicial system, its proceedings, or its members.

DUTIES OWED TO MEMBERS OF THE BAR

1. Lawyers must remember that conflicts with opposing counsel are professional and not personal -

vigorous advocacy is not inconsistent with professional courtesy.

2. Lawyers should treat adverse witnesses and litigants with fairness and due consideration.

3. Lawyers should not be influenced by ill feelings or anger between clients in their conduct, attitude, or demeanor toward opposing counsel.

4. Lawyers should conduct themselves in discovery proceedings in the same manner as they would if a judicial officer were present.

5. Lawyers should not use discovery to harass the opposition or for any improper purpose.

6. Lawyers should not intentionally make any misrepresentation to an opponent.

7. Lawyers should not arbitrarily or unreasonably withhold consent to a just and reasonable request for cooperation or accommodation.

8. Lawyers should not attribute to an opponent a position not clearly taken by the opponent.

9. Letters intended to make a record should be scrupulously accurate.

10. Lawyers should not propose stipulations in the presence of the trier of fact unless previously agreed to by the opponent.

11. Lawyers should ordinarily not interrupt an opponent's legal argument.

12. Lawyers in court should address opposing lawyers through the court.

13. Lawyers should not seek sanctions against or disqualification of another lawyer to obtain a tactical advantage or for any other improper purpose.

14. Lawyers should conduct themselves so that they may conclude each case with a handshake with the opposing lawyer.

**CHAPTER 1
GENERAL POLICIES AND
PROCEDURES****Rule 2.1****Policy**

It is the policy of the courts to manage all cases in accordance with sections 2.1 and 2.3 of the Standards of Judicial Administration, Appendix to the California Rules of Court. Nothing in sections 2.1 and 2.3 shall prevent the courts from issuing an exception order based on a specific finding that the interests of justice require a modification of the routine processes as prescribed. However, no procedure or deadline established by these rules or order of the court may be modified, extended or avoided by stipulation or agreement of the parties, except as permitted by section 68616 of the Government Code, unless approved by the court in advance of the date sought to be altered.

(Eff. 1/1/98; Renumbered 7/1/2001)

Rule 2.2**Filing and Service of Papers**

Unless specifically directed otherwise, all papers shall be filed in the civil business office of the appropriate division.

A. Forms: Only the most recent version of a court form or Judicial Council form will be accepted for filing. Photocopies or computer generated duplicates of Judicial Council and court forms may be used only if the copies are clear, legible, easily readable, the same color as the original, and submitted on the same type of paper (e.g., NCR).

B. Conformed Copies: The court will conform only one copy of each original submitted for filing. If conformed copies are to be returned by mail or messenger, a stamped, self-addressed envelope or messenger slip must be included.

C. Proofs of Service: Proofs of service must be signed by the person who actually accomplished the service. Where forms of service involve more than one component, declarations must be signed by each person completing a component. For example, substituted service of summons is often accomplished by one person doing the substituted service in the field while another completes the service by mailing the copies to the named defendant. In that case, declarations must be signed by each.

(Eff. 1/1/98; Rev. 1/1/2000; Renumbered 7/1/2001)

Rule 2.3**Case Assignment**

At the time an action is filed, it will be assigned either to the master calendar or to a judge for all purposes. A Notice of Case Assignment, which includes the name, physical location, and department of the assigned judge, if any, and a Stipulation to Use of Alternative Dispute Resolution Process form may be generated at the time the case is filed. It shall be the duty of the plaintiff or cross-complainant to serve all defendants with a copy of the Notice of Case Assignment and other documents as set out in rule 2.5.

(Eff. 1/1/98; Rev. 1/1/2000; Renumbered 7/1/2001; Rev. 1/1/2003, Rev. 1/1/2004)

Rule 2.4**Peremptory Challenges**

A. Cases Assigned to a Judge for All Purposes: Pursuant to section 68616, subdivision (i), of the Government Code, in independent calendar cases, any challenges pursuant to section 170.6 of the Code of Civil Procedure shall be exercised within 15 days of the challenging party's first appearance: i.e., a plaintiff's challenge would be due within 15 days of the date the complaint is

filed and a defendant's challenge would be due no more than 15 days after the challenging defendant's first general appearance.

If an independent calendar case is reassigned to another independent calendar judge "for all purposes" (other than the trial of the cause), the challenge must be made within 10 days after notice of the reassignment.

If an independent calendar case is reassigned to another judge for immediate trial, the challenge must be made at that time.

B. Master Calendar Cases: Where a judge other than the judge assigned to the case for all purposes, court commissioner, or referee assigned to or scheduled to try a cause or hear a matter, is known or is easily ascertainable at least 10 days before the date set for trial or hearing, any challenges pursuant to section 170.6 of the Code of Civil Procedure must be made at least 5 days before that date. If the challenge is directed to the trial of a cause where there is a master calendar, the challenge shall be made to the judge supervising the master calendar not later than the time the cause is assigned for trial.

The "10-day/5-day" rule also applies to law and motion hearings noticed in a department regularly assigned to one judge. If the regularly assigned judge does not in fact hear the matter, any section 170.6 challenge shall be made at the time of the hearing before commencement of argument. If the newly assigned judge posts a tentative ruling, it does not affect the right to a section 170.6 challenge at the time of the hearing before commencement of argument.

C. Miscellaneous Cases: In the case of trials or hearings not specifically provided for above, the procedures of section 170.6 of the Code of Civil Procedure shall be followed as nearly as possible.
(Eff. 1/1/98; Rev. 1/1/2000; Renumbered 7/1/2001)

Rule 2.5**Service of Complaint**

Within 60 days of the filing of the complaint, a Certificate of Service must be filed with the court, unless a Certificate of Progress has been filed indicating why service has not been effected on all parties and what is being done to effect service. A general appearance by, or entry of default against one or more defendants, does not dispense with plaintiff's obligation to file a Certificate of Service. Compliance with this rule may be reviewed at the initial case management conference.

To qualify for other than personal service of a complaint and summons under section 415.20 et seq. of the Code of Civil Procedure, personal service must be attempted on at least three different days at three different times of day. All attempts cannot be in the a.m. nor all in the p.m. At least one

of the three attempts must be before 8 a.m. or after 5:30 p.m., and at least one of the three attempts must be between the hours of 8 a.m. and 5:30 p.m. or on Saturday or Sunday at any time. If service is attempted at a business address, all three attempts may be made during the normal business hours of that business.

If service by publication or some other method of service requiring leave of court cannot be completed within 60 days of the filing of the complaint, the last paragraph of the proposed order permitting such service shall contain a blank space for the court to specify the date by which a proof of service and/or a Certificate of Service must be filed. A Certificate of Progress does not need to be filed in this instance.

The following must be served with the complaint:

1. The Notice of Case Assignment (rule 2.3);
 2. A notice of the amount of special and general damages if the complaint seeks to recover damages for personal injury or wrongful death;
 3. A notice of the amount of punitive damages sought; and
 4. ADR information materials.
- (Eff. 1/1/98; Rev. 1/1/2000; Renumbered 7/1/2001; Rev. 1/1/2003)

Rule 2.6

Defendant's Appearance

Unless a special appearance is made, each defendant served shall generally appear (as defined in section 1014 of the Code of Civil Procedure) within the time required by the Code of Civil Procedure, or within 15 days thereafter if the parties have stipulated to extend that time.

If a defendant is unable to make a timely general appearance, a Certificate of Inability to Respond shall be filed and served stating why a responsive pleading could not be filed. The filing of a Certificate of Inability to Respond shall constitute a general appearance for purposes of these rules. (Eff. 1/1/98; Rev. 1/1/2000; Renumbered 7/1/2001; Revised eff. 7/1/2003)

Rule 2.7

Request for Entry of Default

If a defendant does not make a general appearance within the time provided by statute, or makes an unsuccessful motion to quash, stay, or dismiss the action on the grounds of inconvenient forum or improper court, and thereafter fails to plead within the time provided by statute or in these rules, the plaintiff shall request entry of default forthwith.

(Eff. 1/1/98; Rev. 1/1/2000; Renumbered 7/1/2001)

Rule 2.8

Default Judgment

Applications for default judgment should be submitted on declarations pursuant to section 585, subdivision (d), of the Code of Civil Procedure. (See "Guidelines for Default Judgments" attached as Appendix A.) The court will notify the parties if an oral prove-up hearing or additional documentary evidence is required.

(See rule 2.53, Default Attorney Fee Schedule.)

(Eff. 1/1/98; Rev. 1/1/2000; Renumbered 7/1/2001; Rev. 1/1/2003)

Rule 2.9

Case Management Conference

It is the policy of the court to expect the complaint and any cross-complaints will be served, all answers filed or defaults entered, and any challenges to the pleadings heard by the time of the initial case management conference.

A. Scheduling and Notice: Civil cases (excluding unlawful detainers) may, in the court's discretion, be set for a case management conference approximately 150 days after the complaint is filed. The court will give notice of the case management conference to all parties. Further, parties shall serve by mail within 10 days of the date of the notice a copy of such notice on all parties who have been brought into the action who were not included in the court's proof of service. Proofs of such service shall be filed simultaneously with the court and shall be accompanied by a declaration stating the name of the party served; the name, address and phone number of the party's counsel of record, if any; and the nature and status of the party's involvement in the case.

Case management conferences will also be set by the court in all cases transferred from another court, reclassified pursuant to Code of Civil Procedure section 395.9, or stayed as provided in rule 2.13, and in unlawful detainer actions in which the defendant has filed an answer and the court has been notified that possession is no longer in issue.

It is the policy of the court to hold the case management conference on the date originally set. Continuances may be requested ex parte with a declaration showing good cause why the conference should be continued. However, if a disposition as to all parties has been filed with the court at least five court days prior to the hearing date, the case will be taken off calendar and no appearances will be required.

***This rule remains in effect after July 1, 2002, notwithstanding California Rules of Court, rule 981.1, by the authority granted in California Rules of Court, rule 212, to the effect that "[t]he court may provide by local rule for the time and manner of giving notice of the parties."**

B. Preparation for Conference: The primary focus of the initial case management conference will be to determine the status of the case to ensure compliance with the policy as stated in rule 2.1 and to determine if alternative dispute resolution would be appropriate.

A Case Management Statement must be completed by each party and timely filed with the court. Parties will not be required to complete a Case Management Statement for subsequent conferences unless ordered to do so by the court.

Parties completely familiar with the case and possessing authority to enter into stipulations shall be present at the case management conference and shall be fully prepared to discuss any issues addressed by a Case Management Statement and all other matters specified in the notice of hearing provided by the court. Any attorney making a special appearance for counsel of record must have actual knowledge of the facts and procedural history of the case. If a party is not fully prepared, the court may continue the hearing and impose sanctions against the offending party. If the hearing proceeds as scheduled, the orders made will not be subject to reconsideration due to a party's unfamiliarity with the case at the time of the hearing.

(See rule 2.52, Requests to Appear by Telephone.)
(Eff. 1/1/98; Rev. 1/1/2001; Renumbered 7/1/2001; Rev. 7/1/2002; Rev. 1/1/2003)

Rule 2.10

Cases "At Issue"

Cases may be deemed "at issue" when all parties are before the court and challenges to pleadings are complete, or the deadlines set by the court for the completion of these events have passed. This is usually determined by the court at the initial case management conference. Parties wishing an earlier determination and/or who seek referral to alternative dispute resolution, and/or who seek preferential trial setting may do so by ex parte request. No new parties may be substituted by "Doe" designation or added by amendment of pleadings after the case is deemed at issue, without leave of court.

Unless the court orders otherwise, all amendments to pleadings allowed after the case is at issue will be deemed filed and served on the date leave to amend is granted. If the amendment adds a new party, the new party shall be served within 30 days of the date leave to amend was granted and the proof of service on the new party must be filed with the court. Upon the appearance of a new party, the case will remain at issue, unless otherwise ordered. If the new party is not timely served with process, the new party may, on the court's own motion upon notice, be dismissed by the court and/or other sanctions may be imposed.

(Eff. 1/1/98, Rev. 1/1/2000; Renumbered 7/1/2001, Amended eff. 1/1/2003)

Rule 2.11

Expert Witnesses

The court will propose deadlines for the exchange of information concerning expert witnesses and their discoverable reports and writings in accordance with section 2034 of the Code of Civil Procedure at the case management conference. Although the demand requirement of that section may be dispensed with at this hearing, all other provisions of section 2034 of the Code of Civil Procedure will be strictly enforced by the court.

Excessive expert fees are limiting access to the court and undermining the quality of justice. It is the policy of the court that, in addition to the criteria required to be considered in deciding motions brought pursuant to section 2034, subdivision (i)(4), of the Code of Civil Procedure, the court will consider the ordinary and customary fees charged by similar experts for similar services within the relevant community. Based on the experience of the court, the following hourly rates appear to be representative of the ordinary and customary fees charged for expert testimony in this community:

\$ 250	Physicians, osteopaths, surgeons, dentists & psychiatrists
\$ 250	Attorneys
\$ 200	Psychologists
\$ 200	Economists
\$ 200	Engineers, architects
\$ 150	Chiropractors

Parties will be permitted to designate only those experts they in fact intend to call at trial. It is the policy of the court that parties are limited to one expert per field of expertise per side, pursuant to section 723 of the Evidence Code, absent a court order to the contrary. The court will determine which parties constitute "a side" at trial, if necessary.

Expert testimony shall not be used simply to advocate a particular position, and shall be limited in scope in accordance with section 801, subdivision (a), of the Evidence Code to opinions on subjects which are sufficiently beyond common experience that an expert's opinion will assist the trier of fact.
(Eff. 1/1/98; Rev. 1/1/2000; Renumbered 7/1/2001)

Rule 2.12

Jury Fees

When setting a case for trial, the court will determine which party demands a jury, who will post fees, and propose a deadline for the deposit of the fees. The jury fee deposit shall be accompanied

by a Notice of Jury Fee Deposit. Failure to deposit the fees on or before the date agreed upon may constitute a waiver of the right to a jury or result in imposition of sanctions.

(Eff. 1/1/98; Rev. 1/1/99; Rev. 1/1/2000; Renumbered 7/1/2001)

Rule 2.13

Stays of Actions

If a party files a notice of stay in accordance with the California Rules of Court, rule 225(d), the court may either stay the action or set the matter for hearing. At the time of that hearing, the court may propose dismissing the action without prejudice, and reserving jurisdiction to reinstate the case nunc pro tunc when the stay is no longer in effect. Alternatively, parties are encouraged to stipulate to the dismissal of such cases without prejudice, expressly reserving the court's jurisdiction to set aside the dismissal and reinstate the case nunc pro tunc when the stay is no longer in effect. If the court stays the an action without setting the matter for hearing, any party who claims to be exempt from the stay and who seeks to prosecute the action further shall object by noticed motion in the stayed action.

Upon the expiration of the stay period, an action may be dismissed unless good cause has previously been shown, in writing, to the contrary. The stay may be extended for additional periods for good cause shown.

(Eff. 1/1/98; Renumbered 7/1/2001)

Rule 2.14

Structured/Conditional Settlements, Taking Matters Off Calendar

Upon conditional settlement of a case, and, the parties are encouraged to entitle the settlement agreement "Conditional Settlement and Stipulation for Dismissal" and include a stipulation for the immediate dismissal of the action without prejudice, reserving the court's power to set aside the dismissal and order entry of judgment upon a showing of default in the specified terms of the agreement. Exceptions may be advisable in those cases where a lump sum payment is made to a third party who thereafter assumes responsibility for future payments. The court reserves jurisdiction to enter a dismissal with prejudice following the entry of a dismissal without prejudice upon request by the appropriate party.

Removal from any court calendar may be effected by telephone, in the discretion of the court, if:

1. There are no unrepresented litigants;
2. All unserved parties or parties not participating in the settlement will be dismissed; and

3. All parties agree that the case has been settled in its entirety and that dismissals or judgments will be filed within 45 days.

Trials may be taken off calendar by telephone if all of the above conditions are met and the trial date is not more than 365 days after the date the original complaint was filed. Otherwise, the parties must appear ex parte.

(Eff. 1/1/98; Renumbered 7/1/2001; Rev. 1/1/2003)

Rule 2.15

Trial Readiness Conference

A trial readiness conference will generally be scheduled four weeks before the trial date. The parties shall meet prior to the scheduled hearing and attempt to resolve the case, or, if that is not possible, limit issues for trial. If the case is not settled in its entirety, all parties shall prepare and sign a joint trial readiness conference report in the format set forth in Appendix B. Separate reports will not be accepted. Failure to disclose and identify all trial exhibits and witnesses intended to be called at trial and all other items required by the report may, in the court's discretion, result in exclusion or restriction of use at trial. The completed report must be presented to the judge at the scheduled conference. No part of the joint trial readiness conference report shall be received into evidence against any party in later proceedings.

Parties completely familiar with the case and possessing authority to enter into stipulations shall be present at the scheduled hearing. Orders made will be binding on the parties and will not be subject to reconsideration due to an attorney's unfamiliarity with the case at the time of the hearing. The parties shall be prepared to discuss any unusual evidentiary or legal issues anticipated during the trial and all remaining matters believed by any party to be appropriate for stipulation.

During the trial readiness conference, the court will review with counsel and sign or issue the advance trial review order setting forth specific trial preparation requirements of the trial department.

(Eff. 1/1/98; Rev. 1/1/2000; Renumbered 7/1/2001)

Rule 2.16

Jury Instructions

On the scheduled trial date, the parties shall submit the full text of proposed jury instructions to the court. Jury instructions shall be gender neutral and double spaced on plain paper. They may include BAJI numbers but the mere submission of a list of BAJI numbers is not acceptable. Authority may be included on copies of special instructions submitted to the court, but should not appear on the originals.

(Eff. 1/1/2000; Renumbered 7/1/2001)

Rule 2.17**Juror Questionnaire**

If juror questionnaires are proposed by counsel, the questionnaires must be accompanied by a Juror Questionnaire Cover Sheet which shall be provided by the court.

(Eff. 1/1/2000; Renumbered 7/1/2001)

Rule 2.18**Motions in Limine**

Motions in limine shall be limited in scope in accordance with *Clemens v. American Warranty Corp.* (1978) 193 Cal.App.3d 444, 451: e.g., evidentiary issues where attempts to "unring the bell" would be unduly prejudicial or futile. Unless otherwise directed by the court, counsel shall file and serve motions in limine and opposition thereto five court days and two court days respectively prior to trial call. The following motions in limine will be deemed granted at the time of the trial readiness conference if applicable:

1. Motion excluding evidence of collateral source;
2. Motion excluding evidence of or mention of insurance coverage;
3. Motion excluding experts not designated pursuant to section 2034 of the Code of Civil Procedure; and
4. Motion excluding offers to settle and/or settlement discussions.

Written motions should not be submitted on the above issues.

(Eff. 1/1/2000; Renumbered 7/1/2001)

Rule 2.19**Tentative Ruling Policy**

Any party, or attorney for a party, who desires to have any demurrer, motion, or order to show cause set for hearing must contact the calendar clerk for the judge assigned to the case to reserve a hearing date.

Prior to the hearing, any civil department may issue a tentative ruling in a law and motion matter, in the sole discretion of the assigned judge. The tentative ruling will be issued in conformance with the tentative ruling procedures set forth in California Rules of Court, rule 324. If a tentative ruling is issued the day before the date set for hearing, this court follows rule 324(a)(2) and no notice of intent to appear is required to appear for argument. The tentative ruling will be made available by no later than 4:00 p.m. on the court day prior to the scheduled hearing. The tentative ruling may direct the parties to appear for oral argument and may specify the issues on which the court wishes the parties to provide further argument. The tentative ruling may be obtained by calling the court tentative

ruling number for the court branch the case is pending in, or by navigating to the court's website.

This rule does not preclude posting a tentative ruling the day of the hearing pursuant to rule 324(b) nor does it mandate a tentative ruling be issued on all law and motion matters.

The tentative ruling numbers are as follows:

Central:	619-531-3690
North:	760-806-6050
East:	D-14 619-441-4027
	D-15 619-441-4028
	D-21 619-441-4029
South:	619-691-4721

(Eff. 7/1/2000; Renumbered 7/1/2001, Revised 7/1/2004)

CHAPTER 2 SETTLEMENT CONFERENCE

Rule 2.20**Requesting a Settlement Conference**

Settlement conferences may be requested if the parties certify that:

1. Settlement negotiations between the parties have been pursued, demands and offers have been tendered, and resolution has failed. If the court has ordered the parties to participate in a settlement conference, all parties shall exchange demands and offers, and communicate responses thereto. This must be done in good faith and within a reasonable time to allow the opposing party to consider and respond to the offer or demand, but in no event will the first offer or demand be sent any later than five days before the settlement conference;

2. A judicially supervised settlement conference presents a substantial opportunity for settlement; and

3. The case has developed to a point where all parties are legally and factually prepared to present the issues for settlement consideration and further discovery for settlement purposes is not required.

When a matter has been accepted by the court for the purposes of conducting a settlement conference, all parties shall comply with the provisions of rules 2.21, 2.22, and 2.23 unless otherwise ordered.

(Eff. 1/1/98, Rev. 1/1/2000; Renumbered 7/1/2001)

Rule 2.21**Mandatory Appearance**

The provisions of rules 2.21, 2.22, and 2.23 apply to all court-ordered settlement conferences unless otherwise ordered. All parties must be personally present. Claims adjusters for insured defendants, or right-of-way agents in condemnation

proceedings, shall be present with complete authority to settle the case.

Counsel appearing on behalf of their clients shall be completely familiar with the case and possess complete authority to negotiate and settle. Counsel shall have authority to make a specific demand and shall be authorized to make an offer or counteroffer in a specific amount. If a participant is not fully prepared or fails to participate in good faith, the court may continue the hearing and/or impose sanctions against the offending party. If the hearing proceeds as scheduled, the orders made will not be subject to reconsideration due to counsel's unfamiliarity with the case at the time of the hearing.

For good cause shown, a party or agent may be excused from attendance at such conferences provided such party or agent will be available by telephone during the conference. Unless excused by the court, such requests shall be submitted to the court in the form of a stipulation signed by all attorneys of record, or by ex parte appearance at least five court days prior to the settlement conference.

If the settlement conference is to be heard by a temporary judge, such stipulations and settlement conference briefs shall be submitted to the court and ex parte requests shall be made to the independent calendar department to which the case is assigned. (Eff. 1/1/98, Rev. 1/1/2000; Renumbered 7/1/2001)

Rule 2.22

Settlement Statements/Briefs

Written statements of the position of each party shall be lodged with the settlement conference judge and served on other parties five court days prior to the settlement conference, unless otherwise ordered. If service is by mail, all papers must be mailed not less than ten days before the court date. Settlement conference statements shall not become a part of the file and will be discarded. Confidential matters may be brought to the attention of the settlement judge during the settlement conference either orally or in writing.

Statements shall not exceed five pages and shall include the necessary information to concisely support issues of liability and damages, including a settlement demand and offer, as well as an itemization of special and general damages, if applicable. Mandatory settlement conferences are governed by CRC, Rule 222.

(Eff. 1/1/98, Rev. 1/1/2000; Renumbered 7/1/2001)

Rule 2.23

Notifications of Settlement or Continuances

A. Settlement: In accordance with the California Rules of Court, rule 225, if a case is settled, the plaintiff shall immediately give the court

written notice. The plaintiff shall also immediately notify the court by phone or in person if a hearing, conference, or trial date is imminent. The only time a hearing set by the court may be taken off calendar is when the plaintiff advises the court that the case has been settled. In that event, a show cause hearing regarding dismissal will be conducted in 45 days. The show cause hearing will be taken off calendar if a dismissal of all complaints and cross-complaints, or a judgment as to all complaints and cross-complaints, is filed with the court no later than five court days prior to the hearing. If such documentation has not been received by the date set for the show cause hearing, the court will immediately order appropriate sanctions and/or dismiss the entire action.

Failure to advise the court at least five court days before the settlement conference that it will not proceed as scheduled, for any reason other than the settlement of the case in its entirety within the five court day period, may be deemed by the court to be a violation of an order of the court, punishable by monetary sanctions payable to the county under section 177.5 of the Code of Civil Procedure, as well as any other sanction provided by law. In addition to monetary sanctions, any party or attorney who fails to attend a settlement conference risks having their complaint dismissed or their answer stricken and default entered.

B. Continuances: Any party requesting a continuance must appear ex parte and show good cause why the settlement conference should be continued. At the ex parte hearing, a stipulation may be presented to the court, signed by all parties, accompanied by a declaration showing good cause. (Eff. 1/1/98, Rev. 1/1/2000; Renumbered 7/1/2001; Rev. 1/1/2003)

CHAPTER 3 ALTERNATIVE DISPUTE RESOLUTION (ADR)

Rule 2.24

Judicial Arbitration

A. Submission to Arbitration: The court elects to come within the provisions of section 1141.11 et seq. of the Code of Civil Procedure regarding judicial arbitration of all at-issue civil actions which are not exempt. All actions submitted to arbitration pursuant to these sections shall be subject to the provisions contained therein, as well as rules of procedure set forth in the California Rules of Court, rule 1600 et seq., and in these rules.

B. Policy: It is the policy of the court to discourage any unnecessary delay in civil actions. Continuances are discouraged and timely resolution of all actions, including matters submitted to any form of ADR, is encouraged.

After a case is "at issue," the court may order it to judicial arbitration. Counsel must be prepared to discuss whether the arbitration will be binding or non-binding, and to select an arbitrator. Dismissal of all unserved, non-appearing, and fictitiously named parties will also be addressed. The court will propose dates to exchange information concerning expert witnesses and their discoverable reports and writings in accordance with rule 2.26. Although the demand requirement under section 2034 of the Code of Civil Procedure may be dispensed with at this hearing, all other provisions of section 2034 and rule 2.26 will be strictly enforced.

C. Exemption from Arbitration: Matters which are exempt from judicial arbitration are set forth in the California Rules of Court, rule 1600.5, and section 1141.11 of the Code of Civil Procedure.

Unless otherwise ordered by the court, the following categories of actions are also exempt from arbitration, as provided by the California Rules of Court, rule 1600.5(g), and will be set directly for trial:

1. Civil actions in which no jury trial is demanded and the estimated time for trial is one day or less;
2. Civil actions in which any party is not represented by counsel; and
3. Collection actions (i.e., actions primarily seeking money on an assigned claim).

ADR Policy Statement: It is the policy of the San Diego Superior court to strongly support the use of Alternative Dispute Resolution ("ADR") in all general civil cases. The court has long recognized the value of early case management intervention and the use of alternative dispute resolution options for amenable and eligible cases. The use of ADR will be discussed at all Case Management Conference. It is the court's expectation that litigants will utilize some form of ADR – i.e. the court's mediation and arbitration programs or other available private ADR options as a mechanism for case settlement before trial.

(Eff. 1/1/98, Rev. 1/1/2000; Renumbered 7/1/2001; Revised 7/1/2003, Rev. 1/1/2004)

Rule 2.25

Arbitration Procedures

Arbitration rules of procedure are set forth in the California Rules of Court, rule 1600 et seq., and in these rules.

A. Appointment of Arbitrator: At the case management conference, the parties shall stipulate to the appointment of any arbitrator on the list of superior court arbitrators. If the parties do not stipulate, the judge who ordered the case to judicial arbitration shall appoint the arbitrator. The appointment of an arbitrator shall be effective

immediately and shall extend for 90 days. Before any person may be appointed as an arbitrator, that person shall provide a statement on a form provided by the court that they have read and will comply with the provisions of rule 2.24A.

B. Continuances: The court discourages continuances. Rules regarding continuances of arbitration hearings are set forth in the California Rules of Court, rule 1607. Rules regarding the completion of cases within 90 days and the reappointment of an arbitrator for good cause are set forth in the California Rules of Court, rule 1605. If a continuance is denied or 90 days have elapsed from the time of appointment, it is mandatory that all parties appear before the judge who ordered the case to judicial arbitration. If it appears to the court that a request for continuance is not made with good cause, the court may impose monetary sanctions upon the requesting party.

C. Conduct of the Arbitration Hearing: The arbitration hearing shall be conducted as follows:

1. The arbitrator shall administer the oath;
2. Counsel and the arbitrator are to be formally addressed as Mr., Mrs., Miss, or Ms. during the hearing;
3. At the time of the arbitration hearing, or at any other time designated by the arbitrator, each attorney shall submit to the arbitrator (not the court) the following, unless excused from doing so by the arbitrator:
 - a. Copies of any offered pleading, arranged chronologically and appropriately highlighted;
 - b. Copies of any offered deposition transcript or record appropriately highlighted;
 - c. An arbitration brief consisting of:
 - (1) A concise statement of facts;
 - (2) Legal and factual contentions of each party;
 - (3) A statement of damages sought to be awarded including the amount claimed, medical expenses, and property damage;
 - (4) Copies of medical reports and bills;
 - (5) Copies of appraisals/repair estimates; and
 - (6) Copies of repair bills.
 - d. If the arbitration award is not filed within 10 days after the arbitration hearing, or an extension of 20 days is not granted pursuant to the California Rules of Court, rule 1615(b), either party may notify the arbitration department. The

arbitrator will then be requested to submit the award or appear before the judge who ordered the case to judicial arbitration to show cause why rule 1615(b) of the California Rules of Court was not satisfied. (Eff. 1/1/98; Renumbered 7/1/2001)

Rule 2.26**Exchange of Experts After Arbitration**

Failure to comply with this rule may result in a party's inability to call one or more expert witnesses at trial, or subject the noncomplying party to monetary sanctions.

Pursuant to the stipulation of the parties at the case management conference, exchange of experts after arbitration shall be made according to the following schedule:

A. Initial Exchange: Within 15 days of the date of any method of service of a trial de novo request, pursuant to section 2034 of the Code of Civil Procedure each party shall personally serve on all other parties a designation of expert witnesses who will be relied upon at the trial de novo, along with all discoverable reports and writings, if any, of those experts. However, service by mail of the above designation is permitted if made within 10 days of service of the trial de novo request. Parties will be permitted to designate only those experts they in fact intend to call at trial. It is the policy of the courts that parties are limited to one expert per side per field of expertise, pursuant to section 723 of the Evidence Code and rule 2.12, absent a court order to the contrary.

B. Supplemental Exchange: Any supplemental designation of experts must be personally served within 5 days of any personal service of the opponent's initial list, or within 10 days of any mail service of the opponent's initial list. (Eff. 1/1/98, Rev. 1/1/2000; Renumbered 7/1/2001)

Rule 2.27**Request for Trial De Novo**

A request for trial de novo must be filed in the civil business office pursuant to section 1141.20 of the Code of Civil Procedure and the case will be set for trial.

Withdrawal of Trial de Novo Requests: If a party has requested trial de novo, the request may be withdrawn by a written stipulation, signed by counsel for all parties appearing in the case, that the award may be ordered as a judgment. (Eff. 1/1/98, Rev. 1/1/2001; Renumbered 7/1/2001; Rev. 1/1/2003)

Rule 2.28**Prohibition Against Post Arbitration Discovery**

Stipulations for post arbitration discovery pursuant to section 1141.24 of the Code of Civil

Procedure will be recognized by the court, provided that no such stipulation shall modify, extend, or avoid any procedure or deadline established by these rules or order of the court. Expert discovery is not within the prohibition of post arbitration discovery codified under section 1141.24 of the Code of Civil Procedure, but is subject to the applicable rules and orders of the court. (Eff. 1/1/98; Renumbered 7/1/2001)

Rule 2.29**Monetary Sanctions**

In addition to the provisions of the California Rules of Court, rule 1618, regarding notification of settlement, failure of the parties to notify the arbitrator and the court of a continuance or their inability to proceed at least two court days prior to the time set for the arbitration hearing may, upon written notice given by the court, result in an order to show cause why the parties should not pay \$150 or other sanctions. (Eff. 1/1/98; Renumbered 7/1/2001)

Rule 2.30**“Reserved for Future Use.”****Mediation (Deleted 1/1/2003)****Rule 2.31****Civil Mediation Program**

The San Diego Superior Court has established a Civil Mediation Program to replace the Mediation Pilot Program established by Code of Civil procedure section 1730 et seq. The Civil Mediation Program, in effect for cases filed on or after May 1, 2003, or upon stipulation, is designed to assist parties with the early resolution of their dispute. All general civil independent calendar cases, including construction defect, complex and eminent domain cases are eligible to participate in the program. Limited civil collection cases are not eligible at this time.

A. Stipulation to Mediation: If all parties have appeared in the case, they may agree to stipulate to mediation at any time prior to the Case Management Conference. The stipulation must include the name, address and phone number of the mediator and one alternate mediator, the date the mediation is scheduled and whether or not the parties request that DOES be dismissed in the matter. If the stipulation is granted, Appointment of Mediator notices will be issued.

B. Case Management Conference: If parties do not stipulate to mediation prior to the Case Management Conference, the judge will strongly encourage all parties to consider mediation or other ADR options. If it is determined that the case will be mediated, parties will be asked to stipulate to

mediation which will be reflected on the Case Management Conference's Minute Order.

C. Panel of Mediators: Parties may select any mediator to mediate their matter. The court maintains a panel of court-approved mediators who have satisfied training and experience requirements established by the court and who must adhere to minimum standards of practice pursuant to CRC 1622 et seq. and other program policies and procedures.

D. Payment of Mediators: Mediators shall be compensated directly by the parties. The fees and expenses of mediators shall be shared equally between the parties, unless otherwise agreed.

Mediators on the court's approved panel have agreed to charge \$150.00 per hour for each of the first two hours and their individual rate per hour thereafter for court-referred mediation.

Parties may also elect to participate in the Soft Tissue/Auto PI Program by stipulation or upon request to the court. Cases eligible for this program are valued at \$15,000 or less and involve an automobile related soft tissue injury where liability is not in dispute. Once the court has deemed the case eligible for the program, parties may select a mediator on the court's approved panel of mediators who has agreed to the court's payment schedule for the Soft Tissue/Auto PI Program: a flat fee of \$300.00 per mediation.

Mediators on the court's approved panel may not charge parties for preparation or administrative time, but may require that fees be deposited in advance of the mediation session and may have cancellation fees and policies.

Parties may also utilize the services of mediators who are not on the court's approved panel. They will be charged the mediator's individual per hour rate and any other fees in accordance with their policies.

The Court will establish a pro bono/modest means procedure that will be available to qualified parties.

E. Selection of Mediators: Parties are encouraged to make their selection at the time of the Case Management Conference. If they are unable to make a selection, the case will be referred back to the court for the setting of a future hearing. If parties agree on a mediator and alternate and notify the court before the hearing, the hearing will be vacated.

F. Timing of Mediation and Trial Dates: Cases will be referred to mediation for up to 90 days. At the time of the Case Management Conference, tentative trial dates will also be given. If the mediation has ended in non-agreement, the court will confirm the trial dates given. If parties request an extension of time for mediation, they must file a stipulation indicating the date of the future mediation session.

G. Attendance at Mediation: All parties, their counsel and persons with full authority to settle the case shall personally attend the mediation, unless

excused by the court for good cause. If any consent to settle is required for any reason, the party with the consent authority shall be personally present at the mediation.

H. Evaluation: All mediators on the court's approved panel are required to distribute a post mediation survey to all parties, counsel and participants who appeared at the mediation session. All mediation participants are requested to complete these surveys in a timely manner to assist the court with program evaluation.

(Effective July 1, 2003)

(Eff. 2/28/2000, Rev. eff. 1/1/2001; Renumbered 7/1/2001; Rev. 1/1/2003; Rev. eff. 7/1/2003)

CHAPTER 4 SPECIAL CASE CATEGORIES

Rule 2.32

Judgment Debtor Examination Proceedings

A. Setting Hearings: Judgment debtor examination dates are obtained by submitting the appropriate fees, an original and two copies of the order for appearance of judgment debtor, and a stamped, self-addressed envelope or messenger service return slip to the appropriate civil business office. Conformed copies with the appearance date, time, and place will be returned to the judgment creditor for service.

B. Proof of Service: Proof of service must be filed no later than five days before the date of the hearing. However, if the person ordered to appear does appear and is ready to proceed, the examination may be conducted, with or without proof of service having been timely filed, at the discretion of the court.

C. Appearance at Examination: Upon the call of the calendar, if the parties appear the examination must proceed at once, unless a continuance is ordered by the court. If the person ordered to appear does appear and the moving party fails to appear, the proceedings may, at the discretion of the court, be continued to another day or be dismissed without cost and with such additional orders as are appropriate. Appropriate orders may include an order that no future order shall issue as to the person who did appear except upon a showing of new facts and a satisfactory explanation being made to the court for the moving party's failure to appear. If such future order is granted, it shall be made on such terms and conditions as the court deems just and appropriate.

If the moving party does not appear and the court deems it appropriate to continue the examination to a future date, and on that day the moving party does not appear, the proceedings must be dismissed without costs being awarded to the party who secured the order.

D. Nonappearance of Party to be Examined:

If the party to be examined fails to appear at the time and place set for examination, a bench warrant may issue requiring attendance forthwith, provided the moving party complies with subdivision "E" of this rule within 30 days after the examination date.

In no case shall a warrant be issued for the arrest of a person who failed to appear in court as directed in such order if the order with the return of service thereon has not been filed with the clerk of the court within the time specified herein, unless so ordered.

E. Bench Warrants of Attachment: If a judgment debtor fails to appear for hearing as ordered, the judgment creditor requests a bench warrant of attachment, and the court orders a bench warrant of attachment, the judgment creditor must file with the civil business office the following items before the bench warrant of attachment shall issue:

1. Sheriff's instructions, fully completed, stating the location where the defendant may be served (forms available in sheriff's office, original only required);

2. Check made payable to the "Sheriff of San Diego" for service fees; and

3. A bench warrant of attachment form.

The above documents shall be filed within 30 days of the order directing or granting the issuance of the bench warrant of attachment. If the documents are not filed within 30 days following the order for issuance of the bench warrant of attachment, the moving party must apply to the court for an order for appearance of judgment debtor.

F. Continuances: One or more continuances of a judgment debtor examination may be allowed upon stipulation of all parties or their attorneys joined in by the person or entity ordered to appear and approved by the court, or upon good cause shown.

(Eff. 1/1/98, Rev. 1/1/2000; Renumbered 7/1/2001; Rev. 1/1/2003)

Rule 2.33**Unlawful Detainer Proceedings**

A. Order to Show Cause regarding Dismissal: Consistent with the policy set forth under rule 2.1, a show cause hearing regarding dismissal will be set when the complaint is filed and shall be held approximately 45 days after the filing of the complaint unless:

1. The case has been set for trial;

2. The case has been designated as a general civil matter because possession is no longer in issue (section 1952.3 of the Civil Code) and the case is not entitled to precedence (section 1179a of the Code of Civil Procedure);

3. A disposition has been entered (a dismissal, judgment, notice of settlement, or transfer terminates or disposes of the case as to all defendants named in the action); or

4. A conditional settlement has been filed.

There will be no case management conferences in unlawful detainer cases, unless specifically set by order of the court.

B. Trial Setting: In unlimited unlawful detainer cases, it is the responsibility of the parties to notify the court that they are entitled to an expedited trial. In limited unlawful detainer cases, pursuant to Code of Civil Procedure section 1170.5, subdivision (a), a memorandum must be filed requesting that the case be set for trial. The memorandum must contain the following items of information:

(1) the title and number of the case;

(2) the nature of the case;

(3) a statement that all essential parties have been served with process or have appeared and that the case is at issue as to those parties;

(4) whether a jury trial is demanded;

(5) the time estimated for trial;

(6) the names, addresses, and telephone numbers of the attorneys for the parties or of parties appearing without counsel;

(7) whether or not possession is still at issue.

Any counter memorandum must be filed within 5 days of the filing of the trial request memorandum.

C. Judgment for Money Damages after Judgment for Possession of the Premises: When the plaintiff obtains a default judgment for possession of the premises, the case may be calendared for further hearing. In the alternative, a plaintiff may file the necessary declarations for a default judgment or dismissal without prejudice as to the money damages, including attorney fees and costs. Failure to file a dismissal may result in the court barring the plaintiff from obtaining a money judgment or the court calendaring a hearing for the plaintiff to show cause why the case should not be dismissed.

D. Redesignation of Case when Possession is No Longer in Issue (Section 1952.3 of the Civil Code): The plaintiff shall immediately notify the court when possession is no longer in issue and request the matter be redesignated as an unlimited or limited civil matter (section 1952.3 of the Civil Code). The case shall then be monitored as follows:

1. If the defendant has not filed an answer, the case will be monitored for timely entry of default; or

2. If the defendant has filed an answer, the case will be set for a case management conference.

(Eff. 1/1/98, Former Para. A. deleted effective 1/1/2001 (see California Rule of Court 981.1); Rev. 1/1/2001; Renumbered 7/1/2001; Former Para B deleted effective 1/1/2003; Rev. 1/1/2003, Rev. 1/1/2004)

Rule 2.34**Uninsured/Underinsured Motorist Actions**

If a complaint includes an uninsured/underinsured motorist claim as defined under section 68609.5 of the Government Code and section 11580.2 of the Insurance Code, plaintiff shall file a declaration stating the case is an uninsured/underinsured motorist case, the name of insurance carrier, and amount of coverage. The court will suspend the time requirements and the action shall be stayed for a period of 180 days. Any party who claims to be exempt from the stay and who desires to further prosecute the action shall object by noticed motion in the stayed action. Upon the expiration of the 180-day stay period, the action shall be dismissed unless, upon noticed motion, good cause is shown to the contrary. If such motion is granted, the stay may be extended, but such an extension shall not exceed 180 days.

In addition to the above, if a complaint includes an uninsured/underinsured motorist claim as defined under section 68609.5 of the Government Code and section 11580.2 of the Insurance Code, plaintiff shall file a Certificate of Progress so advising the court within 60 calendar days of the filing of the complaint. The certificate shall indicate whether a stay of the action or a portion of the action is requested in accordance with rule 2.14, and/or whether the case will proceed against all other appearing defendants.

(Eff. 1/1/98; Rev. 1/1/99, Rev. 1/1/2000, Rev. 1/1/2001; Renumbered 7/1/2001)

Rule 2.35**Small Claims**

To facilitate compliance with section 2.3(c) of the Standards of Judicial Administration relating to case disposition time standards and delay reduction, a notice shall be given to the plaintiff by the clerk at the time of filing a small claims case advising the following:

1. Failure to appear at the scheduled hearing may result in the case being dismissed.

2. If the defendant(s) is (are) not served by the date of trial and the plaintiff elects not to reset the matter, the case will be dismissed without prejudice when the case is called. Requests for resetting may be made at the time of trial or before. If the case is dismissed on the date of trial for lack of service and resetting, and the plaintiff wishes to further litigate the matter, the case must be refiled and a new filing fee paid.

A. Filings

East County Division: All filings pertaining to small claims actions must be filed at 250 E. Main Street, El Cajon, CA 92020, or in the Ramona Branch, 1428 Montecito Road, Ramona, CA 92065.

North County Division: All filings pertaining to small claims actions must be filed at the North County Regional Center, 325 S. Melrose Drive, Suite 390, Vista, CA 92083.

Central Division: All filings pertaining to small claims actions must be filed at the Kearny Mesa Facility, 8950 Clairemont Mesa Boulevard, San Diego, CA 92123. Small claims trials are heard at this facility.

South County Division: All filings pertaining to small claims actions must be filed at 500 Third Avenue, Chula Vista, CA 91910.

B. Reassignment: If the parties do not stipulate to one commissioner or temporary judge, the matter shall be set for hearing before another commissioner, temporary judge, or judge. If an alternate temporary judge, commissioner, or judge is unavailable in the small claims department at any given session, the matter may be continued by the clerk.

C. Proof of Service: Proof of service shall be filed not later than five days before the date set for hearing. Failure to timely file proof of service may cause the court to remove the hearing from the calendar, or dismiss the case without prejudice.

D. Appeal Procedures: In addition to the requirements of section 116.710 et seq. of the Code of Civil Procedure and the California Rules of Court, rules 151-156, the following procedure shall apply in small claims appeals:

Parties are not required to file trial briefs in small claims appeals. However, if a party feels a brief is necessary, it shall be filed at least five court days prior to the hearing and shall not exceed five pages in length.

(Eff. 1/1/98; Rev. 1/1/99, Rev. 1/1/2000; Renumbered 7/1/2001; Revised eff. 7/1/2003)

Rule 2.36**Eminent Domain**

A. Case Management Conference: Absent the granting of a motion to treat an eminent domain proceeding as a complex case or a motion to enlarge time, it will be set for a case management conference approximately 180 days after the filing of the complaint. By the date of this case management conference, all parties shall either have appeared, been defaulted, disclaimed any interest in the subject property, or been dismissed, and the case must be ready to be placed on the civil active list. A Case Management Statement must be completed by all parties and filed with the court at the time of this

case management conference. The parties may stipulate to ADR or a temporary judge at that time. A trial date shall be set not sooner than 120 days after the case is "at issue."

B. Settlement Conference: A settlement conference on the issue of compensation shall be set 15 days before the trial date if the parties have complied with the settlement conference rules. The plaintiff shall attend the conference with its negotiating agent, and all defendants who claim compensation shall be present except lienholders, if any.

C. Trial Readiness Conference: A trial readiness conference on the issue of compensation shall be set 10 days before the trial date. The plaintiff and other parties presenting valuation testimony at the trial shall meet prior to the scheduled conference and complete, sign, and file a joint trial readiness conference statement in the form provided by the court. The completed statement must be presented to the judge at the scheduled conference.

(Eff. 1/1/98, Rev. 1/1/2000; Renumbered 7/1/2001; Rev. 1/1/2003)

Rule 2.37

Minors/Incompetents/Conservatees

A. Guardians ad Litem: As provided under section 372 et seq. of the Code of Civil Procedure, a guardian ad litem shall be appointed for a minor, incompetent person, or a person for whom a conservator has been appointed. Due to potential conflicts of interest, parents asserting individual claims or defenses shall not serve as guardians ad litem for their minor children, absent a court order to the contrary. Petitions for appointment of a guardian ad litem shall be filed at the same time as the underlying complaint is filed.

B. Petitions to Compromise the Claim of a Minor: A petition to compromise claims on behalf of minors may be filed in a limited civil case only if an action is already pending in that case. Otherwise, it must be filed as an unlimited civil case. The petition shall be filed and set for hearing in the department designated by the presiding or supervising department unless the case has been assigned to a judge or independent calendar department, in which case the petition shall be filed and heard in that department. The person compromising the claim on behalf of the minor and the minor shall be in attendance at the hearing of the petition, unless the court orders otherwise.

At the time of the hearing, the court shall determine the amount of costs, expenses, and attorney's fees to be allowed from the proceeds of the settlement. Absent extraordinary circumstances, attorney's fees shall not exceed 25% of the gross proceeds of the settlement.

The funds shall be disbursed in accordance with the order approving the settlement. It is the duty of the attorney to ensure that the minor's funds are deposited in accordance with the court order referenced above. Attorney's fees are not due or payable unless and until the money is deposited in the blocked account and a receipt executed by the depository is returned to the court.

C. Trusts: In all cases where settlement of any civil proceeding contemplates the creation of a trust with proceeds from a settlement, including trusts for the benefit of minors and incompetent parties or special needs trusts, as authorized by Probate Code section 3600 et seq., the following provisions shall apply:

1. After the approval of the settlement by the judge in the civil proceeding and the hearing thereon as provided in Code of Civil Procedure section 664.6, if necessary, but prior to the payment or transmittal of the proceeds of the settlement agreement to plaintiff's representatives, counsel for plaintiff shall submit a copy of the proposed trust agreement to the trial court judge before whom the settlement agreement was presented and approved. The trial judge will transmit the proposed trust agreement to the probate court for review and approval.

2. Following review of the trust agreement, the probate judge will advise the trial court judge in writing, specifying the required changes, if any, in the proposed trust agreement, together with the amount of trustee's bond to be posted, if any, and whether or not the trust should thereafter be subject to supervision by the probate court as provided in Probate Code section 17200 et seq. When the required changes have been made to the proposed trust agreement, the trial judge shall sign an appropriate order directing the trustee to post the indicated bond before authorizing the payment or transmittal of the settlement proceeds to the trustee to fund the trust, and order the trustee, where necessary, to file a petition in the probate court as described in subdivision 3 below. The trial judge shall forward a file stamped copy of this order and the bond to the probate court.

3. If the order of the trial court provides that the trust will be subject to the supervision of the probate court, the trustee shall file a petition in the probate court subjecting the trust to the jurisdiction of the probate court as authorized by Probate Code section 17000, entitled "Petition for Review of Compliance with Order pursuant to Probate Code section 3602 or 3604," and cause that petition to be set for noticed hearing. Such petition shall be the first petition in a new probate proceeding and a full "first petition" filing fee shall be paid.

(Eff. 1/1/98, Rev. 1/1/2000; Renumbered 7/1/2001; Rev. 1/1/2003, Rev. 1/1/2004)

Rule 2.38**Construction Defect Cases**

(Renumbered & Rev. 7/1/2001; Deleted & added at 1.7D 1/1/2003)

Rule 2.39**“Reserved for Future Use.”**

Rule 2.39 Class Action Rules is superceded by the uniform class action rules in California Rules of Court, rules 1850-1861.

(Eff. 1/1/98, Rev. 1/1/2001; Renumbered 7/1/2001; Repealed 7/1/2002)

Rule 2.40**“Other” Civil Actions**

Civil actions classified as "other," including but not limited to petitions for extraordinary relief and small claims appeals, will be noticed for dismissal 180 days after the filing of the first document conferring court jurisdiction, unless the parties appear ex parte in the appropriate department and obtain an extension of time. The court, on its own motion, may at any time reclassify such cases as "unlimited civil." Cases designated as "eminent domain" must follow the procedures under rule 2.36.

(Eff. 1/1/98; Renumbered 7/1/2001, Rev. 1/1/2004)

Rule 2.41**Extraordinary Writs**

A. In seeking mandamus or prohibition relief, it is not necessary to obtain an alternative writ (section 1088 of the Code of Civil Procedure). The noticed motion procedure should be used whenever possible.

B. If an alternative writ is sought in the first instance, the petition must be filed in the civil business office and the petitioner must appear ex parte to seek issuance of an order to show cause.

C. Petitions for extraordinary writs in limited civil, misdemeanor and infraction cases that name the Superior Court as the respondent are governed by Division VII rules (Appellate).

D. Petitions for extraordinary writs arising out of all other criminal cases are governed by Division III rules (Criminal).

(Eff. 1/1/98, Rev. 1/1/2000; Renumbered 7/1/2001)

Rule 2.42**EADACPA Proceedings**

A. When a civil action has been filed which cites the "Elder Abuse and Dependent Adult Civil Protection Act" (EADACPA), pursuant to CA Welfare & Institution Code §§ 15600 et seq., that action shall be transferred to the Probate Court for litigation if the following apply:

1. A conservator of the person and/or estate has been appointed for the plaintiff and has

qualified prior to the initiation of the action for abuse. CA Welfare & Institutions Code § 15657.3(a).

2. No good cause is shown to retain the action in the Civil Court. CA Welfare & Institutions Code § 15657.3(b). The action shall remain as a civil case file and civil Rules of Court and procedures shall apply.

B. Where a conservator of the person and/or estate has been appointed, any EADACPA action can also be filed by petition or complaint in the Probate Court and will be part of the conservatorship case file. It will be processed like a civil action, with the requirements of a summons and responsive pleadings.

1. The title of the case shall be a dual title "In the Matter of the Conservatorship of (name)" and below that title the civil title, "(Name of conservatee) Through (name of conservator), Conservator of (Person or Estate) v. (name(s)) (of Defendant(s))".

2. Although a civil summons will be issued, the petition or complaint will be set for hearing at least 40 days away, on a regular probate calendar, and that first hearing shall be handled as a review hearing.

a. A Certificate of Service of summons or Certificate of Progress showing inability to serve shall be filed prior to the hearing.

b. Proof of service of probate notices pursuant to applicable statutes should be filed prior to the review hearing.

3. The petition or complaint will thereafter be handled pursuant to probate "fast track" rules for contested matters pursuant to Probate Rules, Division IV, 4.66-4.78.

4. If a jury trial is demanded, or if the time estimate exceeds what Probate Court has the ability to hear, and the matter does not settle, at the Joint Disposition conference, the litigants will be instructed to contact the independent calendar clerk for assignment to a civil court.

5. If the conservatee dies while an action is pending in the Probate Court, the Probate Court will retain jurisdiction of the action in the conservatorship case file. CA Probate Code § 2630.

a. A personal representative or processor in interest to the conservatee shall substitute in as plaintiff. CA Welfare & Institutions Code § 15657.3.

b. A first appearance fee for the substituted party will be required.

(Renumbered 7/1/2001)

CHAPTER 5 MISCELLANEOUS PROVISIONS

Rule 2.43

Soldiers' And Sailors' Civil Relief Act

A. When it is determined a defendant is in the military service so as to be entitled to the benefits of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. Appen. §§ 501-591), counsel for the plaintiff shall, prior to the initial case management conference, determine the defendant's ability to appear and defend the action. No later than the time of the initial case management conference, the plaintiff shall advise the court of the defendant's ability to proceed, and, if necessary, shall apply for one of the orders under subdivision "C" of this rule.

B. When a defendant or a cross-defendant other than the plaintiff communicates to the court in writing that he or she is in the military service and claims the benefits of the Soldiers' and Sailors' Civil Relief Act of 1940, the court shall order the matter set on the case management conference calendar (rule 2.9) no sooner than 60 days after the defendant's notification to the court, unless the court orders otherwise. The court shall notify the plaintiff of the defendant's communication by serving a copy upon plaintiff. Plaintiff shall then serve upon defendant notice of the case management conference (subdivision "D" of this rule). At the case management conference, the court shall make the findings required under subdivision "E" of this rule based upon the evidence presented at the conference.

C. At the case management conference, the court may make one or more of the following orders:

1. If, by the initial case management conference, the plaintiff is unable to advise the court of the defendant's ability to proceed, the action shall be stayed for a reasonable time not to exceed 60 days, so that a hearing may be held to determine the defendant's ability to appear and defend, and whether the defendant will be prejudiced if the action proceeds in his or her absence. The plaintiff shall serve upon defendant notice of stay and of the hearing to determine prejudice (subdivision "D" of this rule). If the notice of stay and of the hearing cannot be timely served upon the defendant, and plaintiff submits evidence to the court that it is either not feasible or unduly expensive to effect service upon the defendant at that time, the court shall so find, and shall dismiss the action without prejudice, reserving jurisdiction to reopen the case if the plaintiff notifies the court that service can be effected upon the defendant. If plaintiff submits evidence that convinces the court that the defendant has, in fact, received notice of the hearing but has

chosen to ignore it, the court shall so find and the action shall proceed in due course;

2. That counsel be appointed to represent the defendant;

3. Any order necessary to further the delay reduction policies set forth in sections 2.1 and 2.3 of the Standards of Judicial Administration appended to the California Rules of Court.

D. Any notice given pursuant to subdivision "B" or "C.1" of this rule shall be served on the defendant by the plaintiff in any manner provided in the Code of Civil Procedure for service of summons. Such notice shall include a statement that if the defendant is unable to appear personally and is requesting a stay of the action because he or she is unable to appear and defend the action at that time, or would otherwise be prejudiced if the action went forward, and that the defendant must serve upon the plaintiff and the court prior to the case management conference an affidavit or declaration under penalty of perjury describing specific facts showing why the defendant cannot appear and defend, or why the defendant would be prejudiced if the action were to go forward in his or her absence. The defendant shall also state when he or she will be able to appear and defend. The notice to the defendant shall clearly state that the defendant's failure to provide an affidavit or declaration under penalty of perjury stating facts showing why the action should not go forward, or why the defendant would be prejudiced if the action were to go forward, will be construed by the court as an admission that the defendant will not be prejudiced if the action went forward in the defendant's absence.

E. If an order is made under subdivision "C.1" of this rule and notice of stay and of the hearing is served on the defendant pursuant to subdivision "D" of this rule, the court shall set a hearing and shall make specific findings on the record as to the following issues:

1. The defendant is in the military and is entitled to the benefits of the Soldiers' and Sailors' Civil Relief Act of 1940;

2. The defendant's present ability to appear and defend the action; and

3. The prejudice to the defendant if the action proceeds in the defendant's absence.

F. If the court makes a finding that the defendant is able to appear and defend, the court shall order the action to proceed in due course. If a stay is requested by the defendant, and the evidence shows that defendant is not currently able to appear and defend or would otherwise suffer prejudice if the action proceeded in his or her absence, and a stay is necessary to permit the defendant to make arrangements to appear and defend, the court shall stay the action for a reasonable time, generally not to exceed 60 days.

(Eff. 1/1/98, Rev. 1/1/2000; Renumbered 7/1/2001)

Rule 2.44

Public Inspection of Files

A. File Review in the Civil Business Office:

Civil files may be reviewed in the civil business office of each division in accordance with the California Rules of Court and the following:

1. Any person requesting to view a file may be required to submit a valid California driver's license or other photo identification card;
2. Cases must be requested by case number;
3. If requested in nonsequential order, a maximum of 10 cases per day will be pulled by the clerk;
4. If requested in sequential order, a maximum of 50 cases per day will be pulled by the clerk;
5. Unlawful detainer case files may be requested by case number no sooner than 60 days following the date the complaint is filed pursuant to section 1161.2 of the Code of Civil Procedure; and
6. No random searches will be accommodated.

B. Access to the Civil Business Office for File Review: Any person who desires access to the secured area of the civil business office to review case files must comply with the following:

1. Submit an Application for Access into the Clerk's Office to Research Court Records;
2. Submit a valid California driver's license or photo identification card and, if applicable, a copy of a valid business license;
3. Pass a background check.

Access will be denied if the applicant has any outstanding warrants, is a party to a pending civil or small claims action, has an open misdemeanor or felony case, is currently on probation for a misdemeanor or felony conviction, or upon order of the court.

Notification of approval or denial of access will be mailed to the applicant at the address shown in the application within 30 days. Applicants who are denied access will be permitted to inspect cases in the same manner as set forth under subdivision "A" of this rule. (Eff. 1/1/98, Rev. 1/1/2000; Renumbered 7/1/2001, Rev. 1/1/2004)

Rule 2.45

Fax Filings

A. Agency Fax Filings: Pursuant to the California Rules of Court, rule 2005, the court will accept for filing all documents submitted by fax filing agencies, except those specified in the California Rules of Court, rule 2002.

B. Direct Fax Filings - Limited Civil Cases: Any document not required to be accompanied by a

fee may be filed directly by fax. Direct fax filing numbers may be obtained by contacting the appropriate business office.

The business office will not provide conformed copies unless a request is submitted to the court with a self-addressed, stamped envelope, and \$.50 per page of the faxed document.
(Eff. 1/1/98, Rev. 1/1/2000; Renumbered 7/1/2001)

Rule 2.46

Procedure Upon Death of Plaintiff

Within 10 calendar days of receiving notice of the death of a plaintiff, counsel for the plaintiff shall file with the court and serve upon all other parties in the action, a Notice of Death of the Plaintiff.

Upon receipt of a Notice of Death of the Plaintiff, the court shall suspend future consideration of the case for 90 calendar days. The case shall be placed on a dismissal calendar to be heard 90 days after the notice is filed unless:

1. The original case is consolidated with a new wrongful death action;
2. Good cause is shown upon written noticed motion to extend the time for dismissal; or
3. Plaintiff's counsel moves to have the original action restored to active status.

(Eff. 1/1/98; Renumbered 7/1/2001)

Rule 2.47

Receivers

The court may appoint a receiver pursuant to statute or in conformance with equity practice. Appointment of a receiver may be made either by order after a show cause hearing, by order after a noticed motion for appointment of a receiver, or by ex parte order for appointment of a receiver.

Ex parte appointment of a receiver is a drastic remedy used only with extreme caution in cases of great emergency when it is shown that the party seeking appointment of a receiver will suffer irreparable harm before a noticed hearing can be held and that no less drastic remedy, such as a temporary restraining order, will prevent the threatened harm. Appointment of a receiver ex parte is contingent upon the filing of an applicant's bond (section 566 of the Code of Civil Procedure) and a receiver's bond (section 567 of the Code of Civil Procedure). The receiver's bond will be fixed in an amount sufficient to cover the value of transferable personal property and cash which the receiver may possess at any time during the expected period of the receivership. Confirmation of the ex parte appointment of a receiver shall be done in conformance with the provisions of the California Rules of Court, rule 351.

The proposed order appointing a receiver shall set forth the powers of the receiver and shall designate as precisely as possible what real and

personal property will be subject to the receivership estate. The powers of the receiver are limited to those designated by statute and set out in the appointing order. If there is any doubt as to the receiver's authority to take certain action, he or she should petition the court for instructions. The proposed order shall also specify the rate of compensation of the receiver.

Employment of counsel by the receiver requires the approval of the court. In this regard, the application shall comply with the provisions of the California Rules of Court, rule 353(b). In addition, the application and the proposed order must set forth the attorney's hourly rate and a good faith estimate of the number of hours the attorney will expend on behalf of the receivership estate.

If the receiver intends to employ a property management company, the proposed order shall specify its rate of compensation. If the proposed property management company is affiliated with the receiver, full disclosure of the affiliation must be made to the parties and the court.

Any money collected by the receiver and not expended pursuant to the receiver's duties must be held in the receivership estate until court approval of the receiver's final report and discharge of the receiver, except as otherwise ordered by the court.

The receiver is an agent of the court, not of any party to the litigation. The receiver is neutral, acts for the benefit of all who may have an interest in the receivership property, and holds assets for the court, not the plaintiff.

Accountings filed in receivership proceedings shall set forth the beginning and ending dates of the accounting period and contain a summary of income, expenses, and capital outlays on a month-by-month basis. Receiver's fees and administrative expenses, including fees and costs of property managers, accountants and/or attorneys previously authorized by the court shall be included in the summary, but separately stated. The summary shall be supported by appropriate itemized schedules and evidentiary foundation.

This rule is not an exhaustive treatment of receivership law and procedure. For applicable law, also see sections 564-570 of the Code of Civil Procedure and the California Rules of Court, rules 349-353.

(Eff. 1/1/98; Renumbered 7/1/2001)

Rule 2.48

Confidentiality Agreements, Protective Orders, Sealed Documents

It is the policy of the court that confidentiality agreements and protective orders are disfavored and should be recognized and approved by the court only when there is a genuine trade secret or privilege to be protected.

Such agreements will not be recognized or approved by the court absent a particularized showing (document by document) that secrecy is in the public interest, the proponent has a cognizable interest in the material (e.g., the material contains trade secrets, privileged information, or is otherwise protected by law from disclosure), and that disclosure would cause serious harm.

Sealed records may be viewed only by parties and their attorneys of record, unless the order sealing the records states otherwise. Sealed records may not be copied by persons authorized to view them, absent a court order to the contrary.

(Eff. 1/1/98, Rev. 1/1/2000; Renumbered 7/1/2001)

Rule 2.49

Daily Transcripts of Proceedings

A party in a civil action may request a daily transcript of the proceedings. The court may grant the request if such will not disrupt the regular assignment of court reporters. If the request is granted, the requesting party shall deposit with the clerk of the court each day a sum equal to the daily cost of the salary and benefits for court reporters in this county under existing law, to compensate the requisite additional reporter. Current information regarding such cost shall be available in the office of the executive officer or assistant executive officer of each division.

(Eff. 1/1/98, Rev. 1/1/2000; Renumbered 7/1/2001)

Rule 2.50

Depositions

No deposition shall be noticed for taking before the court, or in any room or quarters under the control of the court, without the express approval in writing of the presiding judge.

Any deposition returned to court may be opened by the clerk at the request of either party, and the clerk shall note thereon at whose request it was opened, and file the deposition on the day when it was received by the clerk. (Eff. 1/1/98; Renumbered 7/1/2001)

Rule 2.51

Bankruptcy

All parties to an action shall promptly make it known in writing to the court if during the litigation they become debtors in bankruptcy or if, to their knowledge, other parties to the litigation become debtors in bankruptcy.

(Eff. 1/1/98; Renumbered 7/1/2001)

Rule 2.52**Request to Appear by Telephone**

A party may be permitted to appear by telephone in any nonevidentiary law and motion hearing or conference. Requests to appear telephonically must be made in accordance with the California Rules of Court, rules 298. Emergency requests will also be considered on a case by case basis. The court may deny such a request if it determines that personal appearance would materially assist in a determination of the proceeding or in settlement of the case, or where it otherwise appears there is good cause to do so. (Eff. 1/1/98; Rev. 1/1/99; Rev. 1/1/2000; Renumbered 7/1/2001; Rev. 1/1/2003)

Rule 2.53**Default Attorney Fee Schedule**

Whenever the obligation sued upon provides for the recovery of a reasonable attorney fee, the fee in each default case may be fixed pursuant to the following schedule:

PRINCIPAL AMOUNT	FEES
ALLOWED	
\$-0- to \$300	\$ 100
301 to 400	125
401 to 500	150
501 to 700	175
701 to 900	200
901 to 1,000	250
1,001 to 1,500	300
1,501 to 2,000	375
2,001 to 2,500	450
2,501 to 3,000	525
3,001 to 3,500	600
3,501 to 4,000	675
4,001 to 4,500	750
4,501 to 5,000	825
5,001 to 6,000	900
6,001 to 7,000	1,000
7,001 to 8,000	1,100
8,001 to 9,000	1,200
9,001 to 10,000	1,300
10,001 to 12,500	1,400
12,501 to 15,000	1,500
15,001 to 17,500	1,600
17,501 to 20,000	1,700
20,001 to 22,500	1,800
22,501 to 25,000	1,900
Over 25,000	Add 2% of the next 25,000
Over 50,000	Add 1% of the next 50,000
Over 100,000	Add .5%

In any case where an attorney claims he or she is entitled to a fee in excess of any of the above amounts, the attorney may apply to the court therefor and present proof to support the claim. The court shall determine the reasonable fee amount according to proof.

In contested matters, the court shall determine the reasonable attorney fees as proved by the prevailing party after trial in accordance with section 1021 et seq. of the Code of Civil Procedure, sections 1717 and 1717.5 of the Civil Code, and the California Rules of Court, rule 870.2. (Eff. 1/1/98, Rev. 1/1/2000; Renumbered 7/1/2001)

Rule 2.54**Elisors**

Where one of the parties will not or cannot execute a document necessary to carry out a court order, the clerk of the court, or his or her authorized representative or designee may be appointed as an elisor to sign the document. An application for appointment of an elisor may be made ex parte. When applying for an appointment of an elisor, the application and proposed order shall designate "The clerk of the Court or His/Her Designee" as the elisor and indicate for whom the elisor is being appointed. The application shall not set forth a specific court employee. The declaration supporting the application shall include specific facts establishing the necessity for the appointment of the elisor. If the elisor is signing documents requiring notarization, the applicant must arrange for a notary public to be present when the elisor signs the document(s). (Eff. 1/1/1999, Rev. 1/1/2000; Renumbered 7/1/2001)

Rule 2.55**Sanctions**

A. If any counsel, a party represented by counsel, or a party if in pro per, fails to comply with any of the requirements of Division II of the San Diego Superior Court Rules, the court, on motion of a party or on its own motion, may strike all or any part of any pleadings of that party; or dismiss the action or proceeding or any part thereof; or enter a judgment by default against that party; or impose other penalties of a lesser nature or otherwise provided by law; and may order that party or his or her counsel to pay to the moving party the reasonable expenses in making the motion, including reasonable attorney fees.

B. If a failure to comply with the rules in Division II is the responsibility of counsel and not of the party, any penalty shall be imposed on counsel and shall not adversely affect the party's cause of action or defense thereto. (Added eff. 7/1/2002)

San Diego County Superior Court Rules

APPENDIX A

GUIDELINES FOR DEFAULT JUDGMENTS

After you obtain entry of default you must obtain a default judgment within 45 days, unless other defendants named in the complaint have answered. A default judgment may be obtained from the clerk without a hearing or judicial review if the action is one arising from a contract or judgment and seeks recovery of money damages only if a fixed or determinable amount and the defendant was not served by publication (Code of Civil Procedure, section 585, subdivision (a)). Applications for default judgment by clerk should be submitted to the civil business office of the appropriate court.

If, in the sole determination of the court, the case is not amenable to default judgment by clerk pursuant to Code of Civil Procedure § 585(a), the court encourages the submission of applications for default judgment by court by declaration or affidavit in accordance with Code of Civil Procedure § 585(d). Such applications should be submitted to the Civil Business Office of the appropriate court.

Entry of judgment against defaulted defendants will generally be deferred until resolution of the entire action. If you believe a several judgment resolution against a defaulted defendant is proper prior to the resolution of the entire action, you should support your application with applicable factual and legal authority (see, Code of Civil Procedure § 579).

Where the original creditor on an open book account is a bank, a saving association, a federal association, a state or federal credit union, or a subsidiary, affiliate, or holding company of any of those entities, or an authorized industrial loan company, a licensed consumer finance lender or a licensed commercial finance lender, attorney fees will not be awarded under Code of Civil Procedure § 1717.5. An assignee has no greater rights than an assignor. *Brienza v. Tepper* (1995) 35 Cal.App.4th 1839.

The court retains discretion to require oral prove-up hearings in appropriate cases following its review of the papers submitted. Prove-up hearings are often triggered by the following:

1. Credibility of parties/claims at issue;
2. Punitive damages claims;
3. Fraud claims;
4. Personal injury/wrongful death claims;
5. Quiet title actions; and/or
6. Claims for injunctive relief.

COURT JUDGMENT

The following shall be submitted:

- ____ A proposed judgment not exceeding the amount of the prayer.
- ____ In personal injury and wrongful death actions, a judgment not exceeding the total on the statement described in Code of Civil Procedure § 425.11 (Request for Statement of Damages) and Code of Civil Procedure § 425.115 (Reservation of Right to Seek Punitive Damages).
- ____ A declaration setting forth facts showing that the defendant is not in military service. This declaration must be no older than six months. (Soldiers and Sailors Civil Relief Act, 50 USC Appendix § 520).
- ____ A Memorandum of Costs. (See, California Rule of Court 879; Judicial Council Form 982(a)(6)).
- ____ The original written contract, if any, giving rise to the action, or a declaration regarding lost document. California Rule of Court 234.
- ____ If the action is upon an open book account, an affidavit or declaration that no written contract exists. (See, Cal. Civil Procedure Before Trial (Cont.Ed.Bar) § 56.41)
- ____ A computation of any interest, including the date of accrual and the rate of interest.
- ____ A copy of any notice sent to Defendant in accordance with Code of Civil Procedure § 1033(b)(2), if applicable.
- ____ A dismissal of all unnamed defendant, including DOES.
- ____ The ledger or most recent invoice showing amounts due.

CLERK'S JUDGMENT

The following shall be submitted:

- ____ A proposed judgment not exceeding the amount of the prayer.
- ____ A declaration setting forth facts showing that the defendant is not in military service. This declaration must be no older than six months. (Soldiers and Sailors Civil Relief Act, 50 USC Appendix § 520).
- ____ A Memorandum of Costs. (See, California Rule of Court 879; Judicial Council Form 982(a)(6)).

San Diego County Superior Court Rules

____ The original written contract, if any, giving rise to the action, or a declaration regarding lost document. California Rule of Court 234.

____ A computation of any interest, including the date of accrual and the rate of interest.

____ A copy of any notice sent to Defendant in accordance with Code of Civil Procedure § 1033(b)(2), if applicable.

____ A dismissal without prejudice or a written waiver of any causes of action other than those on which a clerk can enter judgment pursuant to Code of Civil Procedure § 585(a).

____ A dismissal of all unnamed defendant, including DOES.

____ If the action is upon an open book account, an affidavit or declaration that no written contract exists. (See, Cal. Civil Procedure Before Trial (Cont.Ed.Bar) § 56.41)

____ On an open book account, plaintiff may obtain a clerk's entry of judgment provided that plaintiff submits one of the following:

1) A verified complaint; or,

2) A declaration setting forth figures from which the clerk may perform a simple computation to obtain the amount of the judgment; or,

3) the ledger or most recent invoice showing amounts due, from which the clerk can perform a simple calculation to compute judgment.

Absent pursuit of at least one of these three alternatives, it is the policy of the San Diego Superior Court that such claims must be presented for entry of judgment by the court.

(Eff. 1/1/98; Rev. 7/1/2001; Rev.7/1/2003)

APPENDIX B

JOINT TRIAL READINESS CONFERENCE REPORT FORMAT

The Joint Trial Readiness Conference Report shall be prepared on pleading paper in accordance with rule 201 of the California Rules of Court. Information in the format indicated below shall be provided for filing at the Trial Readiness Conference. Failure to file the Joint Trial Readiness Conference Report **OR** to appear at the Trial Readiness Conference may result in imposition of monetary sanctions dismissal of the case or entry of a default judgment. Failure to **fully** disclose all required items in the report may result in exclusion or restriction of evidence at trial. This is a **JOINT REPORT**. Separate reports will not be accepted.

Plaintiff(s)	CASE NUMBER	
vs.	JOINT TRIAL READINESS CONFERENCE REPORT	
Defendant(s)	Trial Readiness Conference: (date/time/dept)	
	Trial Date:	Trial time estimate:
	Jury Requested: (Y/N)	Jury fee deposited: (Y/N)
	Court Reporter Requested: (Y/N)	

- A. The parties to the above case, by their attorneys: [list parties and attorneys] met at [address] on [date] but could not settle the case. They are prepared for trial.
- B. Nature of case: (provide a joint, brief, non argumentative description of the case, suitable for reading to a jury panel).
- C. Legal issues which **are not** in dispute: (If a motion for summary adjudication has been granted in this case, specify the cause(s) of action, affirmative defense(s), claim for damage(s) or issue(s) of duty so adjudicated.)
- D. Legal issues which **are** in dispute:
- E. Exhibits: (Counsel shall prepare a joint numerical index of all exhibits.) Each exhibit shall be separately listed. There shall be no sub-parts to an exhibit. The index shall be prepared in the format provided below and shall indicate: (1) exhibit number; (2) by whom **submitted**; (3) a description of each exhibit sufficient for identification; (4) whether the parties have stipulated to admissibility, and if not, the legal ground(s) for objection(s). Effect Serves to clarify that an exhibit is identified on a particular date and not submitted on a particular date.

II EXHIBIT INDEX

1					
2					
3	EXH.	SUBMITTED		LEGAL GR.	
4	<u>NO.</u>	<u>BY</u>	<u>DESCRIPTION</u>	<u>FOR</u>	<u>DATE</u>
5				<u>OBJECT.</u>	<u>SUB'D</u>
6					(Leave this blank)
7					
	_____	_____	_____	_____	_____

21	_____	_____	_____	_____	_____

22 GROUNDS FOR OBJECTION

- | | | | |
|----|----|--|--|
| 23 | | | |
| 24 | 1. | No Objection; Admissibility Stipulated | (Relevancy, Personal Knowledge, |
| 25 | 2. | Irrelevant (§ 210) | Authenticity) (§ 1400, Identity) |
| 26 | 3. | Hearsay (§ 1200) | 7. Unduly Time Consuming, Prejudicial, |
| | | | Confusing, |
| 27 | 4. | Best Evidence (§ 1500) | or Misleading (§ 352) |
| 28 | 5. | Inadmissible Opinion (§ 800) | 8. Subsequent Repair (§ 1151) |
| 29 | 6. | Insufficient Foundation (§ 403) | 9. Other (Specify) |

(continued on next page)

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San Diego County Superior Court Rules

JOINT TRIAL READINESS CONFERENCE REPORT FORMAT JOINT TRIAL READINESS CONFERENCE REPORT FORMAT (Continued)

- F. List standard jury instructions, requested by Plaintiff(s), citing BAJI's by number and Special Instructions by title. **Copies** of proposed Special Instructions shall be presented to the Court, at the conference, for review. **THEY SHALL NOT BE FILED WITH THE REPORT.**
- G. List standard jury instructions, requested by Defendant(s), citing BAJI's by number and Special Instructions by title. **Copies** of proposed Special Instructions shall be presented to the Court, at the conference, for review. **THEY SHALL NOT BE FILED WITH THE REPORT.**
- H. If a Special Verdict form will be proposed, attach to the report.
- I. List the names of all witnesses, including experts, as follows: (Note: Previously exchanged expert witness designation documents shall be attached to the report. Witnesses used solely for impeachment need not be listed):

PLAINTIFF

NAME OF WITNESS (Expert/percipient)	TYPE	OF	WITNESS
--	------	----	---------

DEFENDANT

NAME OF WITNESS (Expert/percipient)	TYPE	OF	WITNESS
--	------	----	---------

The attorneys noted below certify that they have met and conferred jointly, made a good faith settlement demand or offer, but have been unable to settle the case. All deadlines, set by the court for exchange of experts have been met and all discovery is complete. The parties are prepared for trial. (Here, explain any variance from the above recital).

I certify under penalty of perjury under the laws of the State of California that the forgoing is true and correct:

Dated: _____

Dated: _____

Signature: _____

Signature: _____

Type Name: _____

Type Name: _____

Attorney For: _____

Attorney For: _____

Dated: _____

Dated: _____

Signature: _____

Signature: _____

Type Name: _____

Type Name: _____

Attorney For: _____

Attorney For: _____
